

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference W1796-000000	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2004/009841	International filing date (day/month/year) 09.07.2004	Priority date (day/month/year) 11.07.2003
International Patent Classification (IPC) or national classification and IPC C08B30/12, A23K1/16, A23L1/0522, A61K9/20, 47/36		
Applicant Asahi Kasei Chemicals Corporation		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>5</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																								
Name and mailing address of the IPEA/JP	Authorized officer																								
Facsimile No.	Telephone No.																								

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-5, 8-33 as originally filed/furnished
- pages* 6, 7, 7/1 received by this Authority on 28.04.2005
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-6 as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 7, 8, 11-13 received by this Authority on 28.04.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets Fig. 1-12 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☒ the claims, nos. 9, 10
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-8, 11-13	YES
	Claims		NO
Inventive step (IS)	Claims	1-8, 11-13	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8, 11-13	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Documents cited in the international search report			
Document 1: JP 10-195104 A (Nihon Shokuhin Kako Co., Ltd.), 28 July 1998			
Document 2: JP 7-25902 A (Sanwa Kosan Co., Ltd.), 27 January 1995			
Document 3: JP 4-130102 A (Sanwa Kosan Co., Ltd.), 1 May 1992			
Document 4: JP 6-254602 A (Nippon Starch Chemical Co., Ltd.), 12 November 1986			
Document 5: JP 8-143602 A (Shimada Chemical Co., Ltd.), 4 June 1996			
Document 6: JP 4-318001 A (Asahi Chemical Industry Co., Ltd.), 9 November 1992			
Document 7: JP 57-5700 A (Asahi Chemical Industry Co., Ltd.), 12 January 1982			
Claims 1-8 and 11-13)			
The inventions set forth in claims 1-8 and 11-13 are not disclosed in documents 1-7 and could not be conceived easily from any of these documents.			
Therefore, claims 1-8 and 11-13 involve an inventive step.			

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 1-6 relate to functional starch powder which has a water-holding capacity of 400% or more, a collapse time of 5 hours or more and a gel indentation load of 200 g or more; however, the only such powder disclosed in the sense of PCT Article 5 is the functional starch powder presented in the examples, etc., made by a method described in claims 7, 8, 11 and 12, i.e. the method described in claim 13, starting from potato starch; and there is no technical basis for extending this to all other functional starch powders which have a water-holding capacity of 400% or more, a collapse time of 5 hours or more and a gel indentation load of 200 g or more.

Therefore, claims 1-6 are deemed not to be fully supported by the description in the sense of PCT Article 6.